

NYS Fracking Waste Loophole Depends on O'Mara, Battered GOP

By **Peter Mantius**, on October 11th, 2016

Natural Resources News Service

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A caravan of Pennsylvania fracking waste trucks illustrates the cover of the report "License to Dump" produced in 2015 by Environmental Advocates of New York.

Two years after it led the nation in banning high-volume fracking to protect public health, New York State still permits upstate landfills to import vast quantities of drilling waste from fracked natural gas wells in Pennsylvania.

The cross-border shipments are often laced with carcinogenic chemicals and radioactive elements. But politically minded New York regulators classify the waste as non-hazardous construction debris and don't even bother to track it.

"Although we shut the front door on fracking, we left the side door wide open," said state Sen. Liz Krueger (D-Manhattan). "Hundreds of thousands of tons of fracking waste have poured into our state, threatening our land and water. This loophole must be closed."

Krueger recently joined 19 other Democratic senators in appealing to state environmental regulators to act. But to do so, they would have to defy Republicans who control the Senate, a tall task.

Given the partisan divide, the future of the waste loophole probably depends on which party controls the Senate after the Nov. 8 New York election. Krueger sees the possibility of a favorable wave for Democrats due to the recent felony convictions of the chamber's top two Republicans and to the coattails effect of the Clinton-Trump presidential contest.

"We're only one seat away from the Democrats taking the majority of the Senate," Krueger said. "Can it happen this year? Of course. Is it actually a pretty good year for it to happen? Yes."



Sen. Liz Krueger

In one intriguing Senate race, the leader of the look-the-other-way approach to waste disposal regulation, Sen. Tom O'Mara (R-Big Flats), faces a formidable challenge. O'Mara, 53, is chairman of the Senate's Environmental Conservation Committee. Two years ago, his swing vote killed a bill that would have banned fracking waste imports. This year he hasn't allowed his committee to vote on a bill that would require fracking wastes to be regulated as hazardous if they meet health risk criteria.

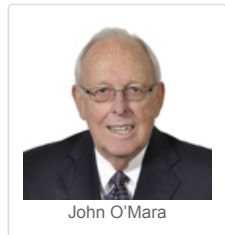
A vocal opponent of the 2014 statewide fracking ban, O'Mara is a salaried partner at Barclay Damon, the largest law firm in upstate New York. The 275-lawyer firm has a long list of clients in the fracking, waste disposal, pipeline and power generation industries.

He also serves as an attorney for Chemung County, which stands to earn more than \$50 million through multi-year contracts with Casella Waste Systems to run the county-owned landfill. That landfill now ships local municipal waste elsewhere so it has room to take lucrative fracking waste from Pennsylvania. No other New York landfill has accepted more.

In his senate district abutting the Pennsylvania state line, O'Mara's power is enhanced by his father, John O'Mara, one of upstate New York's most influential backroom operators under former Republican Gov. George Pataki. The elder O'Mara chaired the state Public Service Commission and headed a statewide committee that nominates judges. He also negotiated state casino agreements for Pataki.



Sen. Tom O'Mara



John O'Mara

Today John O'Mara, at 82, carries the title "of counsel" at Barclay Damon. In January, he wrote Chemung officials to notify them that the law firm would be raising its hourly rate (and his son's compensation).

"There is a political machine in this area, led by the O'Maras," said Jim Carr, chairman of the Chemung County Democratic Committee. "The Chemung County legislators are a rubber stamp for Tom."

When protecting the home turf from unwanted state action on waste disposal, O'Mara has enjoyed reliable support from bloc-voting Senate Republicans. In April 2014, six other Republicans joined him to kill the fracking waste import ban supported by all six Democrats on the Environmental Conservation Committee. In January 2015, then-Senate Majority Leader Dean Skelos promoted O'Mara to Chairman of the committee.

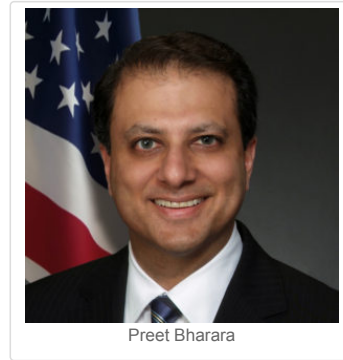
Battling Ethics Reform and a Federal Prosecutor

For Skelos and fellow Republicans, the irksome waste disposal bill was a minor sideshow compared with their desperate efforts to hold power while fending off corruption probes and an aggressive federal prosecutor named Preet Bharara.

Republicans still cling to control in the Senate, but they had to expel Skelos and Deputy Senate Majority Leader Tom Libous last year after Bharara won felony convictions against them. Assembly Speaker Sheldon Silver, a Democrat, was also booted from his post and later sentenced to prison.

Albany has long had a reputation for dirty, dysfunctional politics, where representative government is a sham controlled by "three-men-in-a-room" — the governor, the Assembly Speaker and the Senate Majority Leader.

Two of the three now face jail time, and the third, Gov. Andrew Cuomo, a Democrat, is in Bharara's investigative cross-hairs. Last month the prosecutor issued a new criminal complaint against Cuomo's former top aide, a state university president and others.



Preet Bharara



Assembly Speaker Sheldon Silver

More than two dozen New York State legislators have left office because of criminal or ethical issues since 2000.

"An unending string of scandals fails to spur meaningful reform," the Center for Public Integrity wrote in a November 2015 analysis of integrity in the 50 state governments. The Pulitzer Prize-winning nonprofit group awarded New York an overall grade of D-. Politico Magazine described the state's "toxic (and criminal) political culture" and rated it "No. 1 in corruption."

A recent Siena College poll of the state's registered voters reflected widespread public concern. State corruption was a "very serious" issue for 53% and "somewhat serious" for 36%. Throughout his administration, Cuomo has talked up ethics reform but failed to follow through.

In 2013 he announced with fanfare his creation of the Moreland Commission to root out corruption. But he abruptly shut it down nine months later after Barclay Damon and other law firms squalled about being subpoenaed for details on legislators'

income outside their state salaries.

This year, Cuomo proposed slapping limits on that outside income and closing the loophole that allows virtually unlimited campaign contributions through limited liability companies, or LLCs. He blamed Republicans for killing both measures. LLC donations and legislators' secret outside income were central to the criminal cases against Skelos and Silver.

The LLC loophole allows politicians to sidestep the state's \$5,000 cap on corporate campaign contributions. Under a Pataki Administration legal interpretation, LLCs

may contribute up to 30 times that amount, and anyone can create an unlimited number of the shell companies.

As a result, influence buying has exploded. Political favor-seekers have contributed more than \$20 million a year through LLCs.

Leonard Litwin, a billionaire Manhattan luxury apartment mogul at the heart of both the Skelos and Silver scandals, has used LLCs tied to his family-owned Glenwood Management company to give \$10 million since 2005. He was an unindicted co-conspirator in the Skelos case.

Litwin, who will turn 102 this later month, has reaped at least \$100 million from state tax abatement programs, favorable rental rules and tax-exempt bond financing, according court testimony. "Mr. Litwin's No. 1 concern," a Litwin aide testified, was making sure Republicans held control of the state Senate so he could maintain those perks.

After Republicans stripped the LLC reform provision from Cuomo's ethics bill this summer, the governor was quoted by The New York Daily News as saying: "It is tantamount to political suicide for the Republican Party in this state" to give up the LLC pipeline "because they believe it ends corporate money."



Leonard Litwin

Cuomo didn't mention that in one recent election cycle he received more from LLCs tied to Litwin than anyone else — at least \$1 million — or that he has long worked to keep Republicans on top in the Senate.

Good government groups like Common Cause and the New York Public Interest Research Group were dismayed that Cuomo's LLC and outside income reforms were stripped from the final ethics bill he signed in August.

"The governor and the Legislature swung and missed," said Blair Horner, legislative director of NYPIRG. "The signed bill had almost nothing to do with the scandals in Albany." Horner said Bharara is now the best hope Albany has for cleaning up corruption. "The governor and the Legislature are so disinterested (in ethics reform) that the U.S. Attorney is driving the train on this," Horner added. "All the others are playing political games."



Blair Horner

O'Mara, GOP Senators Sweat Nov. 8

The Nov. 8 election will influence the path of state ethics reform in two ways. It will go a long way toward deciding whether Bharara, a Presidential appointee, is reappointed or replaced, and it will either reestablish or overturn the slim Republican majority in the state Senate.

The website Ballotpedia rates the New York State Senate as one of the nation's 20 "battleground chambers" where either party could realistically emerge with a majority in November. It rates the Republican margin of control in New York Senate as one of the narrowest.

If the Republican majority is in jeopardy, O'Mara's re-election bid may be as well. In seeking his fourth two-year term, he has his toughest opponent yet. Democrat Leslie Danks Burke, an Ithaca attorney, has raised funds aggressively and won endorsements from Krueger, state Comptroller Tom DiNapoli and New York State United Teachers, which claims 600,000 members. The group had endorsed O'Mara in 2014.

O'Mara's television ads tout his central role in passing a bill that requires schools to test for lead in their water. But Danks Burke notes that the legislation provides no new state funding to support the new spending mandate.



During the campaign, O'Mara has been relatively quiet on ethics reform. He has voiced opposition to limits on outside income earned by legislators, but he never even mentions LLCs in the 750-word position paper on corruption posted on his campaign website. As a group, real estate-related LLCs have been his second-largest donor, after Corning Inc. entities.

O'Mara declined to be interviewed about his campaign, but he responded in writing last month to submitted questions. He still did not directly address specifics of the state Department of Environmental Conservation's pending comprehensive rewrite of its solid waste management rules. Asked to state his position on banning fracking waste imports, on closing the hazardous waste loophole, and on banning the spread of fracking waste on roads, O'Mara dodged all three.

Instead he wrote that for DEC Commissioner Basil Seggos, "it remains his contention and confidence that the DEC is engaged in strict oversight of these concerns."

O'Mara went on to say about Seggos: "I take him at his word that the DEC does not permit public health and safety in New York State to be endangered by any byproducts of hydrofracking being conducted in other states." That confidence in the DEC's regulation of fracking waste is not widely shared.

Importing 560,000 tons of fracking waste

"Currently, there are little or no regulations for oil and gas wastes," Elizabeth Moran of Environmental Advocates of New York testified in June. "The regulations DEC has proposed are a step in the right direction, but they must be made significantly stronger."



Basil Seggos



EANY reported last year that five upstate New York landfills had accepted at least 570,000 tons and 23,000 barrels of high-volume hydraulic fracturing waste from Pennsylvania since 2010, based on data from Pennsylvania regulators. "New York does not track this waste," Earthworks, a Washington, D.C.-based nonprofit, reported last year in "Wasting Away," an 85-page analysis of drilling waste disposal practices in New York, Pennsylvania, Ohio and West Virginia — the Marcellus Shale region. Using Pennsylvania data, Earthworks identified at least nine New York facilities that had accepted out-of-state "drill cuttings, wastewater and used fracking sand."

EANY said the Chemung County landfill in Loman was New York's leading fracking waste importer, taking in 192,896 tons. Other leading landfill recipients of cross-border drilling waste have been Seneca Meadows in Waterloo; Allied Waste Systems in Niagara Falls; and Hyland in Angelica.

"Several studies have shown that fracking waste not only contains a slew of carcinogenic or toxic chemicals, but is also highly radioactive," Moran said. "Radium is of particular concern because it is highly soluble in water."

Fracking waste dumped in landfills tends to collect in and contaminate the landfill's leachate pools. Leachate fluids are disposed of in municipal waste water treatment plants (WWTPs), which then pass them through to streams and rivers. "WWTPs in New York are not capable of treating radiation, and ingestion of radium can lead to diseases such as lymphoma, bone cancer and leukemia," Moran added.

Radium-226 levels in Hyland's leachate was five times the EPA contaminant level for drinking water in 2013, EANY reported. A year later, they were 24 times the EPA limit. Tests of leachate from the Chemung Landfill have shown "slight increases (in radioactivity) with each round of testing," EANY said. Those fluids wind up in the Chemung River, which provides nearly two-thirds of Elmira's drinking water.



Chemung Landfill (Photo: Elmira Gazette)

While New York landfills are required to conduct groundwater monitoring and leachate testing, the facilities themselves determine the frequency of testing and the parameters used, Earthworks noted. But DEC has been inconsistent about monitoring landfill leachate. In at least two cases, it has directly abetted corner-cutting.

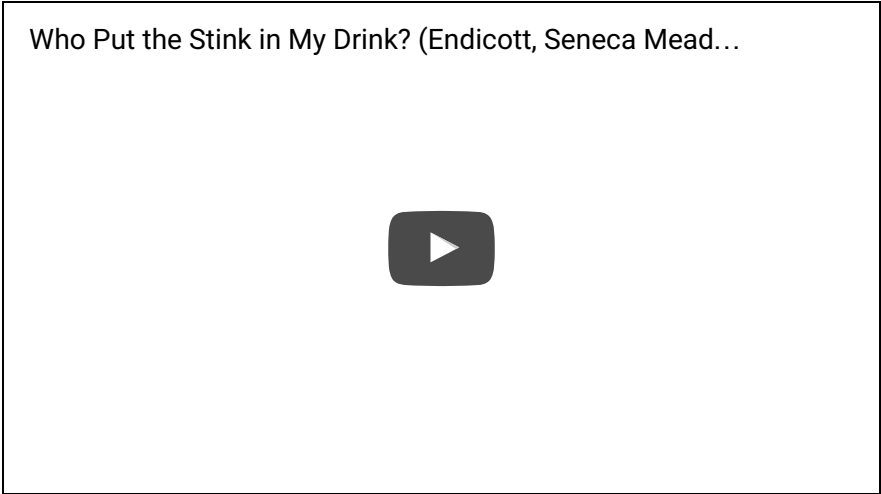
For example, the agency continued to accept analyses of landfill leachate and treatment plant water discharges prepared by Upstate Laboratories Inc. after that testing lab had been raided by the FBI and stripped of its state license.

In fact, the state Department of Health told the DEC on February 27, 2012 that it had revoked Upstate Laboratories' testing license. More than a year later, the DEC

was still accepting Upstate's test results from landfills in Steuben County and elsewhere. Upstate Labs eventually pled guilty to a felony in doctoring 3,300 test results for dozens of New York municipalities.

The DEC also helped fracking-waste recipient Seneca Meadows get rid of its leachate by secretly allowing it to be mixed with other landfill leachate treated at an industrial site 85 miles away in Endicott. The fluids were then discharged into the Susquehanna River.

The DEC did not inform Endicott residents about its "pilot project" for disposing of Seneca Meadows leachate in their community. When they discovered what was going on, they produced an entertaining YouTube video entitled, "Who Put the Stink in My Drink?"



Earthworks reports that the lax treatment of oil and gas development waste can be traced back to the federal Environmental Protection Agency. Many years ago, EPA exempted oil and gas development waste from the definition of "hazardous" under federal law. The EPA left it to the states to fine-tune the way they regulate it.

New York opted to ease up even further by exempting drilling waste from the definition of "industrial waste" as well. That cleared the way for it to be disposed of in municipal landfills, rather than at specialized sites. Relaxed regulation provides commercial opportunities for companies like Casella Waste Systems, which began expanding in upstate New York about 15 years ago.

Aside from a number of smaller transfer stations, the Vermont-based company owns or operates five large landfills in upstate New York: Chemung, just east of Elmira; Clinton in Morrisonville; Hakes in Painted Post; Hyland in Angelica, and Ontario in Stanley.

Casella has run the Chemung Landfill since 2005 and now pays the county \$1 million a year under its contract, according to the Elmira Gazette.



O'Mara with Cuomo and Chemung County Executive Tom Santulli

"The county has already benefited nearly \$25 million in pay and benefits from the money they gave us, and to the Town of Chemung they've given \$3.7 million," County Executive Tom Santulli told the newspaper in April. "They assumed all environmental liability for the landfill, and I would note a year ago, the regional head of DEC said it's probably the best operation in the state."

Although fracking waste imports have stalled a bit during a gas drilling slowdown in Pennsylvania, the county and Casella are taking the long view of the facility's prospects. They seek a DEC permit to expand the annual capacity for waste from 180,000 tons to 417,000 tons.

Depending on several factors, Casella's total future payments to the county through 2031 could reach about \$30 million, the newspaper reported.

Asked whether his current role as a contract attorney for Chemung County included work on Casella contracts, O'Mara wrote: "I served as the Chemung County Attorney from 2000-2004 and did have some dealings involving Casella at the time, but not since."

Tom O'Mara's Rise as Frack Waste Protector

It was Pataki, New York's governor from 1995 to 2006, who launched O'Mara's political career by appointing him Chemung County district attorney in 1999. That plumb job gave the 36-year-old a salary of \$119,000 a year and instant local prominence.

Some might suspect that the governor's favor was traceable to O'Mara's father. After all, Pataki also appointed John O'Mara's daughter Ellen to a lucrative post on the state Workers' Compensation Board. In his first weeks as governor in 1995, Pataki had named the elder O'Mara to the state Public Service Commission, where he quickly rose to chairman and oversaw deregulation of the state's energy industry. The governor also picked him to screen state judges in 1997 and federal prosecutors and federal judges in 2001. He served as chairman of the state's Commission on Judicial Nomination until 2009.

At the same time he functioned as a judicial power broker, John O'Mara earned huge fees lobbying Pataki. For example, in 2004 the elder O'Mara raked in at least \$570,000 working to land state contracts for his clients, The New York Times reported.

John O'Mara was a lobbying partner of Alfonse D'Amato, Republican U.S. senator from New York from 1981 to 1999. Their joint lobbying business was based at 101 Park Avenue in Manhattan, a building owned by real estate magnate Peter Kalikow, the newspaper said.



Gov. George Pataki

When Thomas O'Mara decided to make his first run for statewide office in 2004, the governor served as host to a \$1,000-minimum fundraiser for him in a banquet hall in Kalikow's building, The Times said. O'Mara's campaign wound up raising more than \$228,000 that year, a princely sum for a fledgling candidate for the state Assembly.

After serving three two-year terms in the Assembly, O'Mara ran in 2010 for the state Senate seat vacated by George Winner, an Elmira Republican.

Winner's surprise announcement that he wouldn't seek re-election came days after a DCBureau investigation and other print and TV media reported that he had promoted legislation friendly to the natural gas industry while his law firm represented major gas drillers such as Fortuna Energy (now Talisman). Winner turned over \$9,500 from his campaign war chest for O'Mara's successful Senate campaign against Democrat Pam Mackesey.

Like Winner, O'Mara was an ardent supporter of opening up New York State to natural gas development through high-volume hydrofracking. The region was abuzz with the economic potential of the gas-rich Marcellus Shale formation beneath West Virginia, Ohio, Pennsylvania and the Southern Tier of New York. Pennsylvania had already given fracking the go-ahead, and New York border counties like Chemung and Steuben were eager to cash in too.

Even before he was elected to the state Senate, O'Mara had been serving as attorney for the Chemung Industrial Development Authority, which handed tax breaks to businesses that promised to create jobs. In 2009, the IDA awarded a lucrative break to the Millennium Pipeline, one of the gas industry's key delivery channels across the Southern Tier.

Chemung County residents already shouldered one of the highest property tax burdens in the country before the IDA's gift to the pipeline removed nearly \$19 million in taxable property from the local tax base. Some questioned the deal. "I'm all for bringing jobs in the community," William Torp, Big Flats tax assessor, told the DCBureau in 2010. "But we should do some kind of cost-benefit analysis and see if there are actually jobs brought in."

O'Mara said he played no role in granting the pipeline its tax break. The IDA's board made that call, he said. As a state senator, O'Mara repeatedly complained that the DEC's refusal to green-light high-volume fracking in New York was punishing farmers and landowners, as well as costing the Southern Tier jobs.

He and other fracking supporters were deeply disappointed when Cuomo announced in December 2014 that New York would ban the practice due to health concerns. He cited troubling contamination patterns in Pennsylvania.

The governor had promised to let science decide the fracking issue and to let the DEC weigh the science. DEC staffers were inclined to go ahead, but the state Department of Health was less convinced.

Cuomo knew a decision to allow fracking would have cost him with the environmental portion of his political base. The September 2014 Democratic primary confirmed how much was at stake. Zephyr Teachout, a relatively unknown law professor and political corruption scholar beloved by anti-frackers, shocked Cuomo by winning nearly one-third of the statewide vote and sweeping to victory in several counties in the Finger Lakes and around Albany. The fracking ban announcement three months later was Cuomo's way of tacking left to retrieve a crucial part of his political base.

Fathers and Sons

Politics and power in New York are often a father-son thing.

Andrew Cuomo was elected governor in 2010, 16 years after his father, Mario Cuomo, completed his 12-year tenure in the post. Much more quietly, John O'Mara and son Thomas were amassing power around Elmira, working as a team at their small local law and lobbying firm, Davidson & O'Mara.

In early 2014, the much larger law and lobbying firm Hiscock & Barclay merged with Davidson & O'Mara, only to merge again a year later with Damon Morey and assume the new name Barclay Damon. According to its website, Barclay Damon has 275 lawyers and 11 offices across New York and the Northeast. Its largest office is in Buffalo, and it has major operations in Syracuse, Rochester and Albany.

The O'Maras were joining the legal juggernaut of another political father-son team: former powerful state Sen. H. Douglas Barclay, the namesake of the firm, and his son, current state Assemblyman William A. Barclay (R-Pulaski).

The younger Barclay was briefly in the line of fire of the Moreland Commission, Cuomo's abortive anti-corruption panel. After commission attorneys subpoenaed the firm (Hiscock & Barclay at the time) for documents pertaining to William Barclay's non-legislative income there, the firm went to court to quash the subpoena, saying it demanded "privileged and confidential material."

Similarly, Skelos and Silver tried to beat back Moreland subpoenas that sought information on their outside income. "We will not allow (a governor) to ignore the Constitution or the important principle of separation of powers," Skelos wrote at the time.

After Cuomo shuttered the Moreland Commission, an irritated Preet Bharara swooped in in May 2014 to try to salvage those curtailed investigations. The governor may have underestimated the seriousness of the prosecutor's intent.

Cuomo continued to lavish praise on one of his favorite liaisons with the Republican Senate, Deputy Majority Leader Libous. He called Libous a "great mentor and a great friend" and described him as "one of the really special human beings in the New York State Legislature."

The governor even departed early from a ceremony unveiling his father's portrait at the Capitol to attend the wedding reception of Libous' son, Matthew Libous, at a lake near Deposit, 125 miles southwest of Albany. Only days later, Bharara poured cold water on those warm expressions of solidarity when he announced the indictment of Tom Libous and Matthew Libous on separate felony charges.

The elder Libous was convicted last July of lying to the FBI. He died of cancer this past May. Silver was indicted in February 2015 for fraud, extortion and money laundering. He was sentenced to 12 years in prison this past March. Skelos and his son Adam were indicted in May 2015 and sentenced a year later to five and seven years, respectively, for bribery, extortion and conspiracy.

The elder Skelos had been convicted of wielding political influence to help his son receive payments from AbTech, a firm that hoped to sell "hydrofracking filters" across the Southern Tier. AbTech paid lobbyists to approach Sens. Libous and O'Mara, among others, to see if they were amenable to allowing fracking waste water to be trucked around their districts.

Barclay Damon, Fracking Promoter

Meanwhile, O'Mara's law firm had been pouring money into the fight to allow fracking in New York. In January 2014, Common Cause rated it in its Top 10 of "Oil and gas support industries" based on its campaign contributions of \$812,000.

The firm — Hiscock Barclay at the time — also represented Norse Energy Corp., a struggling fracking hopeful that had extensive drilling leases in New York. Before filing for bankruptcy, Norse was lead plaintiff on the losing side of a landmark court case that affirmed local municipalities' right to reject fracking.

In that case involving the town of Dryden and another involving the town of Middlefield, the state's highest court threw out the gas industry's argument that the DEC — not local jurisdictions — had the final say on where gas wells can be drilled.



In the middle of those cases, Hiscock Barclay lured Yvonne Hennessey away from The West Law Firm in Albany, which headed the industry's legal team. Her former boss at the Albany firm, Tom West, has been Casella Waste's lead regulatory attorney in Southern Tier landfill expansion bids. Hennessey and West have claimed roles in preparing the same pro-fracking legislation in 2008 that got former Sen. Winner in hot water for conflicts of interest. Today, she serves as co-chair of Barclay Damon's environmental practice group. The other co-chair is Frank Bifera, a former general counsel of the DEC. Attorneys at the firm remain active in a host of pipeline, waste disposal and gas power plant matters.



Dean Skelos and his son Adam



Sen. Tom Libous

For example, at least three Barclay Damon attorneys have worked on aspects of Atlas Holdings' controversial bid to restart the Greenidge power plant in Dresden at the northern end of O'Mara's senate district. At a tense, packed public hearing late last year, opponents called the plant a "dinosaur" and said a restart would conflict with state's planned shift toward clean energy. An assistant to O'Mara spoke up for the project. O'Mara said he has worked diligently with a local development council that helped win the project a \$2 million state grant. Atlas Holdings and related entities contributed \$96,000 to Cuomo, while Greenidge paid nearly \$400,000 to the lobbying firm Mercury Public Affairs. Mercury partner Michael McKeon had served as executive director of the group Republicans for Cuomo.

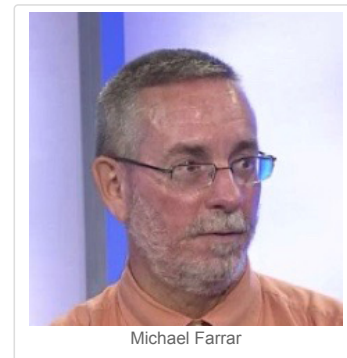
O'Mara said in his recent written responses that he had no role in obtaining the \$2 million state gift to Greenidge. Neither did he have any role, he wrote, in the Chemung IDA's recent purchase of an Elmira arena for \$3.5 million, using \$1 million from Casella.

That deal was handled by other Barclay Damon attorneys, including Susan Katzoff, who O'Mara had introduced at an IDA meeting months earlier. O'Mara said his firm's Bryan Maggs handled the county's role in the negotiations that included the Casella money. Barclay Damon had also represented the bank that received the \$3.5 million proceeds from the arena deal. Sensing a potential conflict of interest, Katzoff asked for and received a conflict waiver from the IDA for her role.

Carr, the Chemung Democratic chair, questioned why the county would divert its payment from Casella to the IDA to help it pay off a bank loan. "I think it stinks," he said. Michael Farrar, acting director of the state Authorities Budget Office, wondered why the IDA tolerated Katzoff's legal conflict. "You mean there are no other qualified law firms in the area that can provide those services?" he said.

The ABO harshly criticized the Chemung IDA last year for failing to properly screen applicants for tax benefits or to confirm that projects meet their job-creation goals. And in a report in June, Comptroller DiNapoli singled out the Chemung IDA for its sky-high expenses per project — \$589,217 — tops in the state by far.

The IDA has not specified how much of those expenses were legal fees paid to O'Mara. Furthermore, his IDA work was not competitively bid out, as the ABO recommends.



Michael Farrar

O'Mara has declined to say how much pay he received from the IDA, or from any of his other sources of outside legal income. In addition to his legislative salary of \$79,500 and \$12,500 bonus for heading a Senate committee, O'Mara earned the following outside income, based on his 2015 financial disclosure report:

- A salary of between \$75,000 and \$100,000 from Barclay Damon.
- Unspecified income for bringing unspecified clients to Barclay Damon.
- At least \$1,000 from the Chemung IDA.
- At least \$1,000 each as a contract lawyer for the counties of Chemung, Steuben and Schuyler, as well as the cities of Elmira, Corning and Lindley. He represents them all in the Senate.

O'Mara said in his written statement last month that his legal work for the counties dates back to before Hiscock Barclay bought the Elmira law firm. He said he was "ethically precluded" from disclosing details about his referral fees.

Hornor of PIRG said O'Mara should have sought a formal confidential opinion on his potential conflicts of interest from the state Legislative Ethics Commission. O'Mara would then have the option, Hornor said, of voluntarily releasing the findings. O'Mara said he has never asked the commission for an opinion.

"I take ethics laws, rules and regulations extremely seriously and I am extremely careful, as a private attorney, to not represent clients or actions which have to do with any business or issues before the state," he wrote.

There is no evidence that O'Mara has broken any existing disclosure or conflict of interest laws. But those lax rules need to be overhauled, according to DiNapoli. Fundamental ethics reforms — better disclosure, caps on legislators' outside income and closing the LLC loophole — is "very, very key," DiNapoli said in an interview at a Corning fundraiser for Danks Burke in August.

"Having a reform-minded candidate elected to the state Senate will help move the ethics agenda along," DiNapoli added. "And she's well on the way to winning this seat."

But Krueger said Danks Burke faces an uphill struggle due to the numerical advantage Republicans have in registered voters in Senate District 58, which covers Chemung, Steuben, Schuyler, Yates and parts of Tompkins counties.

"This is not one of the easier runs in the state," Krueger said. "If Tom O'Mara loses his seat to Leslie, she will absolutely not be the only Democrat joining the Senate."

Republicans are scrambling to stay in control. That has meant shoring up their position in Senate District 54, just north of O'Mara's, where Sen. Michael Nozzolio (R-Seneca Falls) is not seeking re-election. He cited health issues, but he had also been a prime target of Moreland subpoenas.

GOP leaders in the Senate have since rallied to help Pamela Helming, a former Casella Waste compliance officer, win a contested party nomination to succeed

Nozzolio. If Helming wins the seat, as expected, her district will include the Casella-run Ontario County landfill and Seneca Meadows, the landfill recently targeted for a \$3-billion deal to handle waste from New York City.

Most independent observers figure that O'Mara has a tougher race against Danks Burke. Fortunately for him, the Democratic governor has not endorsed his party's nominee, Danks Burke. Instead, Cuomo has gone out of his way to give O'Mara valuable PR in the run-up to the election.

On Sept. 21, Cuomo and an entourage swooped in to the Elmira/Corning Regional Airport to announce to dozens of back-slapping local officials that the state would donate \$40 million to a planned renovation of the outdated terminal.

Elmira/Corning was a curious choice to win such a generous grant in a competition against 17 upstate airports (Rochester won a slightly smaller gift). It struggles to attract customers because it struggles to offer competitive flight schedules.

Moments after he'd made O'Mara a local hero, I asked Cuomo whether he was endorsing either O'Mara or Danks Burke. "We're not talking about any politics today," Cuomo said. "We're talking about good government, and this is a project that we worked on together and we're very proud of."

Solid Waste Management Facilities (Part 360) Proposed Regulations by **Washington Bureau** on Scribd

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 RULES

August 22nd, 2016

Basil Seggos
 Commissioner
 New York State Dept. of Environmental Conservation
 625 Broadway
 Albany, NY 12233

RE: Solid Waste Management Facilities (Part 360) Proposed Regulations

Dear Commissioner Seggos,

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